

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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SHEILA LONG, MICHAEL DONIOS,	:	
JOSEPH JONES JR., and MATTHEW	:	CASE NO. 23-CV-5705
SCHRIER,	:	
	:	<b>[PROPOSED] STIPULATED ORDER</b>
Plaintiffs,	:	
	:	
vs.	:	
	:	
MTN GROUP LIMITED, MTN IRANCELL,	:	
MTN DUBAI LIMITED, ZTE	:	
CORPORATION, ZTE (USA) INC., ZTE	:	
(TX) INC., HUAWEI TECHNOLOGIES	:	
CO., LTD., HUAWEI TECHNOLOGIES	:	
USA INC., HUAWEI DEVICE USA INC.,	:	
FUTUREWEI TECHNOLOGIES, INC., and	:	
SKYCOM TECH CO., LTD.,	:	
	:	
Defendants.	:	
	:	
	:	
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Subject to the approval of the Court, Plaintiffs Sheila Long, Michael Donios, Joseph Jones Jr., and Matthew Schrier (“Plaintiffs”), Defendants ZTE (USA) Inc., ZTE (TX) Inc. (“ZTE US Defendants”), and Huawei Technologies USA Inc., Huawei Device USA Inc., and Futurewei Technologies Inc. (“Huawei US Defendants”), through their undersigned counsel, stipulate and agree as follows:

WHEREAS, on July 28, 2023, Plaintiffs commenced the above-captioned action through the filing of a complaint (the “Complaint”) on July 28, 2023 (Dkt. No. 1).

WHEREAS, Plaintiffs claim that the ZTE US Defendants and Huawei US Defendants are liable under aiding-and-abetting and conspiracy theories of liability pursuant to the Anti-Terrorism Act (“ATA”), as amended by the Justice Against Sponsors of Terrorism Act based on alleged conduct that is nearly identical to that alleged in two related cases before this Court, *David Lau, et*

*al. v. ZTE Corp., et al.*, Case No. 22-cv-1855 (E.D.N.Y.) (“*Lau* Action”) and *Stephanie Zobay, et al. v. MTN Group Ltd., et al.*, Case No. 21-cv-3503 (E.D.N.Y.) (“*Zobay* Action”).

WHEREAS, on September 28, 2023, the Court issued an Opinion and Order in each of the *Lau* and *Zobay* Actions following motion to dismiss briefing and oral argument,<sup>1</sup> which dismissed the complaints in both against the ZTE US Defendants and the Huawei US Defendants. *See Lau* Action, ECF 73; *Zobay* Action, ECF 129 (collectively, the “MTD Opinions”).

WHEREAS, the Court dismissed the ATA claims in the *Lau* and *Zobay* Actions: (i) against the ZTE US Defendants for lack of personal jurisdiction, and (ii) against the Huawei US Defendants for failure to state a claim.<sup>2</sup>

WHEREAS, ZTE (TX) Inc. and the Huawei US Defendants were properly served the Complaint and summons on October 20, 2023, and ZTE (USA) Inc. was properly served the Complaint and summons on October 24, 2023.

WHEREAS, an answer to the Complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure is due in this matter within twenty one (21) days of service of process of the Complaint and summons, *see* Fed. R. Civ. P. 12(a) and (b);

WHEREAS, the parties wish to provide a streamlined procedure to promote the efficient resolution of related actions;

IT IS HEREBY STIPULATED AND AGREED, subject to approval of the Court, by and between the undersigned counsel for Plaintiffs, ZTE US Defendants, and Huawei US Defendants, that:

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<sup>1</sup> The court held oral argument in the *Zobay* Action on November 7, 2022 and in the *Lau* Action on January 11, 2023.

<sup>2</sup> Unlike in the *Zobay* Action, the ATA claims in the *Lau* Action against Huawei Technologies USA Inc. were dismissed for lack of personal jurisdiction.

1. The parties' respective arguments with respect to the ZTE US Defendants' and Huawei US Defendants' motions to dismiss in the *Lau* and *Zobay* Actions are adopted and incorporated fully in the above-captioned action, and shall be treated as having been made as to the Complaint in the above-captioned action. *Lau* Action, ECF 54-61, 64-67, 71; *Zobay* Action, ECF 48, 81, 83-85, 87, 93, 95, 99, 101-105, 110, 112, 116, 120-123. The parties' arguments in the *Lau* and *Zobay* Actions shall therefore collectively be treated as a motion to dismiss under Fed. R. Civ. P. 12(b) having been made with respect to the Complaint, and those arguments are preserved with respect to any appeal in this action.

2. The Court's MTD Opinions dismissing the *Lau* and *Zobay* Actions against the ZTE US Defendants and Huawei US Defendants shall be treated as if they were rendered with respect to the Complaint for all purposes. As a result, and for all of the reasons set forth in the MTD Opinions, Plaintiffs' claims in the above-captioned action against the ZTE US Defendants and the Huawei US Defendants are dismissed. These dismissals shall be effective as of the date that the Court enters this order.

3. Notwithstanding anything to the contrary in this [Proposed] Stipulated Order, nothing herein or concerning the parties' application of the Court's reasoning in the MTD Opinions to dismiss Plaintiffs' claims against the ZTE US Defendants or Huawei US Defendants is, or should be construed as, any party agreeing either implicitly or expressly with any of the Court's findings of fact, conclusions of law, or reasoning set forth in the MTD Opinions.

4. Nothing in this [Proposed] Stipulated Order shall have any bearing on Plaintiffs' claims against any defendant named in the above-captioned action other than the ZTE US Defendants and Huawei US Defendants.

**AGREED:**

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**SO ORDERED:**

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